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6 Attorneys for Defendants MTV NETWORKS, INC.,
7 WARNER HORIZON TELEVISION INC.,
DREAM MERCHANT 21 ENTERTAINMENT, INC.,
and DAFT PRODUCTIONS INC.

9
10 **UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12 KEVIN BARAIRO,

13 Plaintiff,

14 v.

15 MTV NETWORKS, INC., WARNER
16 HORIZON TELEVISION INC.,
DREAM MERCHANT 21
17 ENTERTAINMENT, INC., DAFT
PRODUCTIONS INC., and INVISIBLE
18 STRIPES CLOTHING,

19 Defendants.

20 Case No. CV09-1742-EDL

21 Hon. Elizabeth D. Laporte

22 **[PROPOSED] ORDER GRANTING**
DEFENDANTS' MOTIONS TO
DISMISS

23 Date: September 29, 2009

24 Time: 9:00 a.m.

25 Place: Courtroom E, 15th floor
450 Golden Gate Avenue
26 San Francisco, CA 94102

ORDER

On September 29, 2009, at 9:00 a.m., counsel for Plaintiff Kevin Barairo, counsel for Defendants MTV Networks, Inc, Warner Horizon Television Inc., Dream Merchant 21 Entertainment, Inc., and Daft Production Inc.’s (“Producer Defendants”) and counsel for Defendant Invisible Stripes, LLC’s (“Defendant Invisible Stripes”) appeared before the Court on Producer Defendants’ Motion to Dismiss (Doc. No. 9), and Invisible Stripes’ Motion to Dismiss (Doc. No. 29) (both referred herein as the “Motions to Dismiss”).

Having considered the Motions to Dismiss, Plaintiff's Opposition to Defendants' Motion to Dismiss and Statement of Non-Opposition to Selected Causes of Action (Doc. No. 33), and Defendants' Replies in Support of their Motions to Dismiss (Doc. Nos. 34, 35), all documents submitted therewith, the file in this case and having heard oral arguments of the parties, and finding good cause therefore,

IT IS HEREBY ORDERED that:

1. Producer Defendants' Motion to Dismiss is GRANTED. Plaintiff's fifth claim for trademark dilution, eighth claim for false advertising, ninth claim for interference with contract, and tenth claim for interference with prospective economic advantage against Producer Defendants are hereby DISMISSED with prejudice. Plaintiff's remaining claims against Producer Defendants are DISMISSED with leave to amend.
2. Defendant Invisible Stripes' Motion to Dismiss is GRANTED. Plaintiff's first claim infringement of registered trademark, fifth claim for trademark dilution, eighth claim for false advertising, and ninth claim for interference with contract against Defendant Invisible Stripes are hereby DISMISSED with prejudice. Plaintiff's third claim

1 for False Designation of Origin; fourth claim for Trade Dress
2 Infringement; sixth claim for Unfair Competition; and tenth claim for
3 Interference with Prospective Economic Advantage against Invisible
4 Stripes are DISMISSED with leave to amend.

5 3. Plaintiff may file an amended pleading on or before **October 15,**
6 **2009.**
7 4. The parties are directed to meet and confer regarding any stipulation to extend the
court deadlines previously set in this matter.

8 IT IS SO ORDERED.

9
10 DATED: October 5, 2009

11
12 By: *Elizabeth D. Laporte*

13 Hon. Elizabeth D. Laporte
14 United States Magistrate Judge